

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

10/50/574

PCT/EP2002/007193



Applicant's or agent's file reference 7342/02 P	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2002/007193	International filing date (day/month/year) 29 June 2002 (29.06.2002)	Priority date (day/month/year)
International Patent Classification (IPC) or national classification and IPC C22C 21/16, 21/14, C22F 1/057		
Applicant FIRMA OTTO FUCHS		

1.	This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of <u>5</u> sheets, including this cover sheet. <input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of _____ sheets.
3.	This report contains indications relating to the following items: I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 11 February 2003 (11.02.2003)	Date of completion of this report 04 April 2003 (04.04.2003)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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I. Basis of the report

1. With regard to the elements of the international application:*

☒ the international application as originally filed

☒ the description: _____, as originally filed
 pages _____ 1-9
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

☒ the claims: _____, as originally filed
 pages _____ 1-14
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

☒ the drawings: _____, as originally filed
 pages _____ 1/5-5/5
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

☐ the sequence listing part of the description: _____, as originally filed
 pages _____
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
☐ the claims, Nos. _____
☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-14	YES
	Claims		NO
Inventive step (IS)	Claims	1-14	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-14	YES
	Claims		NO

2. Citations and explanations

Novelty and inventive step (PCT Article 33(2) and (3))

This report makes reference to the following document:

D1: POLMEAR, I.J. et al., "After Concorde: evaluation of an Al-Cu-Mg-Ag alloy for use in the proposed European supersonic transport", MATERIALS SCIENCE FORUM, vols. 217-222 (1996), pages 1759-1764 (XP009003900)

D1, which can be regarded as the closest prior art, discloses an alloy which has the following composition in weight percent:

4.5 Cu; 0.08 Fe; 0.45 Mg; 0.30 Mn; 0.07 Si; 0.41 Ag; 0.06 Ti; 0.18 Zr; the remainder is Al (see table 1, "Medium Cu" alloy, page 1760).

D1 does not disclose the claimed Si content. The subject matter of claim 1 is therefore novel (PCT Article 33(2)).

The problem to be solved can be regarded as that of providing an alloy that has optimal properties of the product with regard to static and dynamic load capacity, resistance to heat, fracture toughness and creep resistance (see description, page 2, lines 11-15).

Since none of the available documents discloses or suggests the solution to this problem as claimed, an inventive step is also recognized (PCT Article 33(3)).

Independent claims 11 and 12 relate to the alloy in claim 1. The subjects of these claims are therefore also regarded as novel and inventive.

Claims 2 to 10 and 13 to 14 are dependent on claims 1 and 12, respectively, and therefore also meet the PCT requirements for novelty and inventive step.

Note:

If concurrent, related pieces of evidence suggest that the wording of the disclosure of a document contains errors and does not reflect the intended technical substantive matter, this incorrect disclosure is not regarded as prior art.

If a published paper makes reference to the concurrent original document, but the verbatim disclosure in the paper does not match the original document, the paper must be interpreted on the basis of the original document in determining what, technically, has in fact been disclosed. If it is then discovered that the disclosure of the paper contains errors, this incorrect disclosure is not regarded as prior art.

This applies in particular to the following composition in weight percent:

93 Al; 4.5 Cu; 0.1 Fe; 0.4 Mg; 0.3 Mn; 0.7 Si; 0.4
Ag; 0.1 Ti; 0.2 Zr

which is disclosed as alloy "185064-29-3" in the last IT field in the abstract of D1 from the STN database,

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DATABASE CA [Online] CHEMICAL ABSTRACTS SERVICE, COLUMBUS, OHIO, US, accession no. 126:49942 (XP002227161). This composition shows a high Si content and does not agree with the original D1 document. This alloy therefore does not need to be taken into account as prior art.